

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6087**

**BILL NUMBER: SB 75**

**NOTE PREPARED:** Mar 1, 2010

**BILL AMENDED:** Feb 22, 2010

**SUBJECT:** Alcoholic Beverages.

**FIRST AUTHOR:** Sen. Simpson

**FIRST SPONSOR:** Rep. VanHaaften

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Sunday Carryout by Microbreweries*: This bill allows a microbrewery to sell the brewery's beer for carryout on Sunday at the address for which the brewer's permit was issued.

*Alcoholic Beverage Sale Hours on Sunday and Election Day Sales*: The bill allows alcoholic beverages to be sold on election days. It allows the holder of a retailer's permit to sell alcoholic beverages on Sunday from 7 a.m. until 3 a.m. the following day. (Under current law, the holder of a retailer permit may sell alcoholic beverages on Sunday from 10 a.m. until 12:30 a.m. the following day).

*Penalty Provision*: The bill makes it a Class B misdemeanor for an alcoholic beverage permittee or permittee's employee or agent to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person alcoholic beverages for carryout without first requiring the person to produce proof that the person is at least 21 years of age by: (1) a driver's license; (2) a government issued identification card; or (3) a government issued document; that bears the person's photograph and birth date.

*Criminal or Administrative Proceedings Concerning Sales of Alcoholic Beverages to Minors*: The bill provides that it is a defense in a criminal or administrative proceeding that the individual to whom the alcoholic beverages were sold appeared to be at least 50 years of age. It provides that, in a criminal prosecution or proceeding before the alcohol and tobacco commission, it is a defense to a charge of unlawfully furnishing alcohol to a minor that the purchaser produced a government issued document bearing the purchaser's photograph and showing the purchaser to be at least 21 years of age.

*Alcoholic Beverage Permits*: The bill eliminates the requirement that a publicly owned airport be served by a scheduled commercial passenger airline in order for a restaurant located in the passenger terminal to be

eligible for a permit to sell beer, wine, and liquor. It allows an indoor theater located in a city having a population of more than 200,000 but less than 300,000 and that has been listed in the National Register of Historic places to: (1) be issued a one-way, two-way, or three-way permit to sell alcoholic beverages; and (2) to have children present.

*Alcohol Server Training:* The bill requires alcohol servers, retailer permittees, or management representatives of retailer or dealer permittees to complete alcohol server training by May 1, 2011. (Current law requires completion of the training by January 1, 2010.)

*Applicants for Permits to Sell Alcoholic Beverages in Marion County:* The bill requires an applicant for a permit to sell alcoholic beverages in Marion County to file with the local board verification from a department of the consolidated city designated by ordinance that the applicant is in compliance with zoning requirements for the premises to be licensed. (Current law requires verification from the department of metropolitan development.)

**Effective Date:** Upon passage; July 1, 2010.

**Explanation of State Expenditures:** This bill could increase administrative expenditures for the Alcohol and Tobacco Commission (ATC). It is estimated that the ATC will be able to implement these provisions with its existing level of resources.

**Explanation of State Revenues:** (Revised) *Sunday Carryout by Microbreweries:* This bill allows a brewer to sell beer for carryout on Sundays to a consumer at a quantity of not more than 576 ounces and only at the address where the brewer's permit was issued. To the extent that this bill increases alcoholic beverage sales, collections of alcoholic beverage excise taxes could increase. Any impact on Sales Tax revenue is expected to be minimal since any additional purchases of alcohol would likely reduce consumer spending on other sales taxable items.

*Alcoholic Beverage Sale Hours on Sunday and Election Day Sales:* This bill expands the hours on Sunday a holder of a retailers permit can sell alcoholic beverage, and it removes the prohibition against the sale of alcoholic beverages on election days. It is estimated that these provisions could potentially increase revenue each fiscal year.

While it is assumed that the majority of consumers are able to purchase all the alcoholic beverages they desire to consume within the hours dictated by current law, it is possible that the added convenience and availability of alcohol sales during the extended hours on Sundays and on election days may allow consumers to purchase more alcoholic beverages than they would have otherwise. An increase in the overall quantity of alcoholic beverages purchased could increase state revenue from excise taxes assessed on alcoholic beverages. The extent to which consumers may make additional purchases above what would be purchased under current law is unknown. Any impact on Sales Tax revenue is expected to be minimal.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

*Alcoholic Beverage Permits:* This bill could increase permit fee revenue. The bill allows an indoor theater located in Fort Wayne to be issued a one-way, two-way, or three-way permit to sell alcoholic beverages. The bill also eliminates the provision that a publicly owned airport must be served by a scheduled commercial

passenger airline in order for a restaurant located in the passenger terminal to be eligible for a permit to sell beer, wine, and liquor. The extent of the increase in permit fee revenue would depend on the number of airports that meet this criteria.

Three-way permits allow an establishment to sell beer, wine, and liquor. A two-way permit only allows the sale of beer and wine. A one-way permit can be issued to allow a dealer to sell one of the following: beer, wine, or liquor. All of these permits are required to be renewed on an annual basis. The fee for a three-way permit is \$1,000, while the fee for a two-way permit is \$750 and \$500 for a one-way permit. These fees are deposited in the Excise Fund, and then redistributed 37% to the state General Fund, 33% to the general funds of cities, towns, and counties based on population, and 30% to the Enforcement and Administration Fund.

***Background Information*** - The alcoholic beverage excise taxes are distributed in varying amounts to the following funds: state General Fund, the Post War Construction Fund, the Enforcement and Administration Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund. The state retains 50% of the General Fund distribution, and the remainder is distributed to cities and towns based on population.

Sales tax revenue is deposited in the state General Fund (99.178%), the Public Mass Transportation Fund (0.670%), the Industrial Rail Service Fund (0.029%) and the Commuter Rail Service Fund (0.123%).

**Explanation of Local Expenditures:** *Penalty Provision:* A Class B misdemeanor is punishable by up to 180 days in jail.

**Explanation of Local Revenues:** *Sunday Carryout by Microbreweries:* See *Explanation of State Revenues*.

*Alcoholic Beverage Sale Hours on Sunday and Election Day Sales:* See *Explanation of State Revenues*.

*Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

*Alcoholic Beverage Permits:* See *Explanation of State Revenues*.

**State Agencies Affected:** Alcohol and Tobacco Commission.

**Local Agencies Affected:** Cities and towns; Trial courts; Local law enforcement agencies.

**Information Sources:** Shirley Kirby, Alcohol and Tobacco Commission, 317-232-2468.

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